

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROY L. BRITT,

Defendant.

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No. 4:14-CR-280 (CEJ)

ORDER

Pursuant to 28 U.S.C. § 636(b), all pretrial matters in this case were referred to United States Magistrate Judge David D. Noce for determination and recommended disposition, where appropriate. On December 15, 2014, Judge Noce entered an Report and Recommendation with respect to the motion filed by defendant Roy L. Britt to suppress evidence and statements. On January 6, 2015, the defendant timely filed an objection to the Report and Recommendation

Pursuant to 28 U.S.C. § 636(b)(1), the court is required to make a de novo determination of the specified proposed findings and recommendations to which objection is made. Here, the defendant asserts that the recommendation to deny the motion to suppress "is contrary to the law and against the weight of the evidence and testimony." *Defendant's Response to Magistrate's Report and Recommendation* [Doc. # 30]. The defendant makes no specific allegation of error in the factual findings made by the magistrate judge or in the application of the law to the facts.

Nevertheless, having reviewed the evidence presented during the suppression hearing, the court finds that the conduct of the police did not violate the defendant's

rights under the Fourth Amendment. The evidence establishes that the defendant was not seized until he was arrested inside the house he'd fled into and the arrest was supported by probable cause. Also, the court agrees with the magistrate judge that the seizure of the firearm by the police was reasonable for their protection and for the protection of others inside the house. Finally, the statements the defendant made to the officers before he was given the Miranda¹ warnings were volunteered and were not the product of police interrogation or its functional equivalent. See Rhode Island v. Innis, 446 U.S. 290, 300-01 (1980) The defendant's post-Miranda statements were made voluntarily and with an understanding of his rights to remain silent and to counsel. Thus, there was no violation of the defendant's rights under the Fifth Amendment.

Based on its review of the evidence, the Court concludes that the defendant's motion to suppress should be denied.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge David D. Noce is sustained, adopted, and incorporated herein.

¹Miranda v. Arizona, 384 U.S. 436 (1966).

IT IS FURTHER ORDERED that the motion of defendant Roy L. Britt to to suppress evidence and statements [Doc. #19] is **denied**.

A handwritten signature in blue ink, reading "Carol E. Jackson", written over a horizontal line.

CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 7th day of January, 2015.